

REMARKS

In the subject Office Action, claims 1-7 were rejected under 35 U.S.C. 102(b) as being anticipated U.S. Patent No. 6,000,596 to Cariati. In addition, claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Cariati. In response, independent claim 1 has been cancelled and new independent claim 10 is presented. Applicant respectfully submits that, for the following reasons, newly added independent claim 10, and claims 2-8 and 11 which have been amended to depend therefrom, are patentable over Cariati.

Newly added independent claim 10 requires that the delivery tube is connected to the fastener supply and is connectable to the setting tool. To date, the Examiner has been comparing the delivery tube to the conveyor (104 in Figs. 2 and 3) of Cariati. Such a conveyor is not connected to a fastener supply (but is rather the supply of fasteners) and is not connectable to a setting tool.

In addition, claim 10 requires that the delivery tube has a bore that defines an internal cross-section profile configured to conform substantially to the size and shape of the fastener to be used. The Examiner is comparing the delivery tube to the conveyor of Cariati. Such a conveyor does not define a bore having an internal cross-section profile that is configured to conform to the size and shape of the fastener to be used. In contrast, Cariati describes a conveyor which is housed inside an enclosed, track-mounted base (see column 2, lines 25 and 26). There is no suggestion of this defining a bore and no suggestion of the internal cross-section being configured to conform to the shape of the fastener. The housing would have to incorporate the arresting element of Cariati (108 in Figs. 2 and 3) and therefore could not be so shaped.

Claim 10 requires that there is a source of pressurized gas having an outlet that is connected to the delivery tube and configured to supply pressurized gas through the bore of the tube so as to propel fasteners along the tube towards the setting tool. Cartati describes a source of pressurized gas that has an outlet. However, this outlet is not connected to the conveyor of Cariati and is not configured to supply pressurized gas through the conveyor so as to propel fasteners along the conveyor.

Claim 10 refers to the outlet having a bore with an interior shape and dimension that is substantially identical to the interior cross-section profile of the delivery tube. There is no teaching or suggestion in Cariati that the outlet of the source of pressurized gas has a bore with a dimension equivalent to the internal dimension represented by the housing surrounding the conveyor. Indeed it is clear from Fig 2 that the outlet of the gas source (52) is quite different in size and shape to the inside of the housing that encloses the conveyor (104).

Claim 10 requires that there is a moveable transfer passage for transferring a fastener between the fastener supply and the delivery tube. There is no reference in Cariati to there being such a moveable transfer passage. In contrast, the fasteners simply fall under gravity from the conveyor into the duct (12 in Figs. 1, 2 and 4).

Claim 10 requires that there is a seal associated with a transfer passage. The seal of Cariati is simply used to close one end of the duct (12). There is no teaching or suggestion of a seal in combination with a transfer passage that prevents leakage of gas from the Cariati conveyor. Indeed, there would be no reason to prevent leakage of gas from the Cariati conveyor as such gas is not used to propel fasteners along the conveyor.

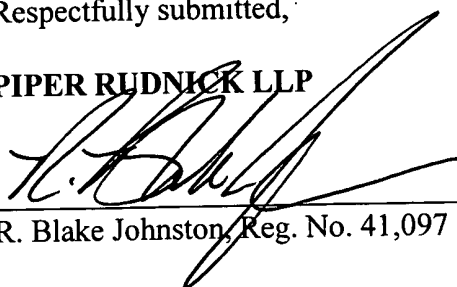
As a result, Applicants respectfully submit that newly added independent claim 10 and dependent claims 2-8 and 11 are patentable over the cited art.

In view of the foregoing amendments and remarks, it is believed that the application is in condition for allowance and such action is respectively requested.

If the Examiner believes that a telephone conference would advance the prosecution of the case, it is requested that the undersigned attorney be telephoned for that purpose.

Respectfully submitted,

PIPER RUDNICK LLP



R. Blake Johnston, Reg. No. 41,097

Dated: 12/18/03

PIPER RUDNICK LLP

P.O. Box 64807

Chicago, Illinois 60664-0807

Ph: 312-368-8921

Fax: 312-630-6310